

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MELINA RAZAVI,
Plaintiff,

v.

SUPERCUTS SALON, REGIS
CORPORATION, AND DOES 1-100,
Defendants.

Case No. [5:15-cv-02574-HRL](#)

**ORDER THAT CASE BE REASSIGNED
TO A DISTRICT JUDGE**

**ORDER GRANTING APPLICATION
TO PROCEED IN FORMA PAUPERIS**

**REPORT AND RECOMMENDATION
RE DISMISSAL FOR LACK OF
SUBJECT MATTER JURISDICTION**

Melina Razavi sues for personal injuries allegedly suffered during a visit to a Supercuts salon. She also moves for leave to proceed in forma pauperis (IFP). For the reasons discussed below, this court grants her IFP application, but recommends that her complaint be dismissed for lack of subject matter jurisdiction.

A court may authorize the commencement of a civil action IFP if the court is satisfied that the applicant cannot pay the requisite filing fees. 28 U.S.C § 1915(a)(1). In evaluating such an application, the court should “gran[t] or den[y] IFP status based on the applicant’s financial resources alone and then independently determin[e] whether to dismiss the complaint on the grounds that it is frivolous.” Franklin v. Murphy, 745 F.2d 1221, 1226-27 n.5 (9th Cir. 1984). A court may dismiss a case filed without the payment of the filing fee whenever it determines that

1 the action “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted;
2 or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. §
3 1915(e)(2)(B)(i)-(iii). This court notes that Razavi’s application fails to state whether the
4 complaint she seeks to file raises claims that have been presented in other lawsuits. (Dkt. 2 at 4).
5 Nevertheless, she qualifies financially for IFP status, and her IFP application therefore is granted.

6 Even so, the court has a continuing duty to determine whether it has subject matter
7 jurisdiction. Fed. R. Civ. P. 12(h). This court concludes that Razavi may not proceed with this
8 action here because there is no federal subject matter jurisdiction over this matter.

9 Razavi fails to show that jurisdiction is proper based on any federal law. Federal courts
10 have original jurisdiction over civil actions “arising under the Constitution, laws, or treaties of the
11 United States.” 28 U.S.C. § 1331. A claim “arises under” federal law if, based on the “well-
12 pleaded complaint rule,” the plaintiff alleges a federal claim for relief. Vaden v. Discovery Bank,
13 129 S. Ct. 1262, 1272 (2009). Plaintiff’s complaint presents a personal injury claim arising only
14 under state law. It does not allege any federal claims whatsoever. And, it is not apparent that she
15 could plead any such claim.

16 Nor does this court find any basis for diversity jurisdiction. Federal district courts have
17 jurisdiction over civil actions in which the matter in controversy exceeds the sum or value of
18 \$75,000 (exclusive of interest and costs) and is between citizens of different states. 28 U.S.C.
19 §1332. Razavi fails to identify the citizenship of each defendant, and there is no indication that
20 the amount in controversy requirement is satisfied.


21 There being no basis for federal subject matter jurisdiction, Razavi’s complaint should be
22 dismissed.

23 Because the parties have yet to consent to the undersigned’s jurisdiction, this court
24 ORDERS the Clerk of the Court to reassign this case to a District Judge. The undersigned further
25 RECOMMENDS that the newly assigned judge dismiss the complaint. Any party may serve and
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file objections to this Report and Recommendation within fourteen days after being served. Fed.
R. Civ. P. 72.

SO ORDERED.

Dated: June 18, 2015



HOWARD R. LLOYD
United States Magistrate Judge

United States District Court
Northern District of California

United States District Court
Northern District of California

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5:15-cv-02574-HRL A copy of this order sent on June 18, 2015 by U.S. Mail to:

Melina Razavi
1200 Franklin Mall
Santa Clara, CA 95050

Melina Razavi
P.O. Box 53034
San Jose, CA 95153